

Remarks:

Claims 1-3, 7, 8, 10-13, and 18-23 are pending. Applicant has amended the claims to distinctively claim the subject matter of the invention. By virtue of this amendment, claims 1, 7, 8, 11, 18, 19, and 22 have been amended. Claim 24 has been added. No new matter has been added as support for the amendments is found within the specification and the drawings. It is submitted that the application, as amended, is in condition for allowance.

Objection(s):

Applicant has renumbered claim 23 per the Examiner's suggestion.

§102 Rejection(s):

Claims 1, 2, 7, 8, 11, 12, 18, and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2004/0166839 to Okkonen et al. (hereafter "Okkonen") in view of U.S. Patent Publication No. 2002/0107868 to Childs et al. (hereafter "Childs") and further in view of U.S. Patent No. 5,125,091 to Staas, Jr. et al. (hereafter "Staas"). Claims 3, 13, 21, and 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Okkonen in view of Childs, Staas, and U.S. Patent Publication No. 2005/0164692 to Roth et al. (hereafter "Roth"). Claims 10 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Okkonen in view of Childs, Staas, and U.S. Patent Publication No. 2004/0042604 to Hiltunen et al. (hereafter "Hiltunen"). Claim 22 is rejected under 35 U.S.C. §103(a) as being unpatentable over Okkonen in view of Childs, Staas, and U.S. Patent Publication No. 2002/0128908 to Levin et al. (hereafter "Levin"). These grounds of rejection are respectfully traversed.

MPEP §2143 provides:

"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

Okkonen discloses determining whether a subscriber identity module (SIM) card has been inserted in a different electronic device by detecting changed SIM card information in the electronic device. A software agent notifies a service provider if the SIM card has changed, so that the service provider may ensure access to services associated with the SIM card is not interrupted by sending firmware and software updates specific to the electronic device. See Abstract and paragraph [0042].

Okkonen fails to disclose at least one of the elements recited in claim 1, as amended. In particular, Okkonen fails to disclose “determining whether a user has modified configuration data stored in a memory of a mobile device by comparing one or more values entered by the user with the configuration data, wherein the values are entered by the user through interaction with one or more configuration menus of a user interface of the mobile device; wherein the configuration data is compared with the respective records of the database for consistency, wherein the configuration data is compared to a range of values to determine whether the configuration data transmitted to the server system is valid, in response to determining that the respective records of the database are inconsistent with the configuration data, wherein an alert is generated, in response to determining that the configuration data is outside the range of values, wherein the database is updated by replacing at least one record in the database based on the configuration data, such that the configuration data is made available to a service representative for trouble shooting purposes,” as recited in amended claim 1.

Additionally, Okkonen discloses detecting a changed SIM card in an electronic device by comparing information stored in the SIM card with information stored in a memory of the electronic device. See paragraph [0057]. Claim 1, on the other hand, recites detecting modified configuration data by comparing values entered by a user through interaction with configuration menus with configuration data stored in a memory of a mobile device. Thus, the configuration data recited in claim 1 may include SIM card information, but is not limited to SIM card information.

Further, Okkonen teaches away from the elements recited in claim 1. Okkonen discloses notifying a service provider when a SIM card is inserted into a different electronic device so that the service provider may send firmware and software updates to the new device. Claim 1, on the other hand, recites updating database records in a server system when configuration data has been modified by a user so that a service representative may have access to modified configuration data during troubleshooting of a mobile device. Thus, Okkonen is directed to sending updates from a service provider to a device, while claim 1 is directed to sending updates from a device to a server system (i.e., service provider); updates are sent in opposite directions.

Childs discloses collecting reliability and maintenance (RAM) data for monitoring various industrial facilities (such as power plants, manufacturing plants), and more particularly, turbines operating a power plant. See paragraphs [0002] and [0021]-[0022].

Childs fails to disclose at least one of the elements recited in claim 1, as amended. In particular, Childs fails to disclose “determining whether a user has modified configuration data stored in a memory of a mobile device by comparing one or more values entered by the user with the configuration data, wherein the values are entered by the user through interaction with one or more configuration menus of a user interface of the mobile device; and transmitting the configuration data to a server system for updating respective records of a database in the mobile communication network, in response to determining that the configuration data has been modified by the user, wherein the configuration data is compared with the respective records of the database for consistency, wherein the configuration data is compared to a range of values to determine whether the configuration data transmitted to the server system is valid, in response to determining that the respective records of the database are inconsistent with the configuration data, wherein the database is updated by replacing at least one record in the database based on the configuration data, such that the configuration data is made available to a service representative for trouble shooting purposes,” as recited in amended claim 1.

Additionally, as stated in the response to the previous Office Action, there is no apparent motivation for combining Okkonen and Childs, as both references disclose systems and methods with different purposes and goals. Okkonen relates to the field of mobile communications

networks and notifying a service provider of changed SIM card information, while Childs relates to managing reliability and maintenance data for industrial facilities, particularly power plants operating with turbines.

Staas discloses controlling processing in a computer, particularly real-time processing, using computer data objects. Real-time or other input data received from data sources is classified according to pre-stored control data. The control data defines which data source provides the real-time data, how the real-time data is to be processed, where the real-time data is to be stored, and what reports the real-time data will be used in. The classified real-time data becomes a computer data object with its associated control data and all subsequent processing is performed on the computer data object. See Abstract.

Staas fails to disclose at least one of the elements recited in claim 1, as amended. In particular, Staas fails to disclose “determining whether a user has modified configuration data stored in a memory of a mobile device by comparing one or more values entered by the user with the configuration data, wherein the values are entered by the user through interaction with one or more configuration menus of a user interface of the mobile device; and transmitting the configuration data to a server system for updating respective records of a database in the mobile communication network, in response to determining that the configuration data has been modified by the user, wherein the configuration data is compared with the respective records of the database for consistency, wherein an alert is generated, in response to determining that the configuration data is outside the range of values, wherein the database is updated by replacing at least one record in the database based on the configuration data, such that the configuration data is made available to a service representative for trouble shooting purposes,” as recited in amended claim 1.

Moreover, there is no apparent motivation for combining Staas with either of the above-mentioned references, as both Staas and the above-mentioned references disclose systems and methods with different purposes and goals. Okkonen relates to the field of mobile communications networks and notifying a service provider of changed SIM card information. Childs relates to managing reliability and maintenance data for industrial facilities, particularly

power plants operating with turbines. And, Staas relates to controlling processing in a computer, particularly real-time processing, using computer data objects.

Roth discloses a method of operating a mobile communication device having a set of one or more applications, each with its own associated user-configurable customization, the method comprising detecting whether the user-configurable customization of any of the applications has changed since an earlier time and wirelessly transmitting the changes to a remote server. See Abstract.

Roth fails to disclose at least one of the elements recited in claim 1, as amended. In particular, Roth fails to disclose “determining whether a user has modified configuration data stored in a memory of a mobile device by comparing one or more values entered by the user with the configuration data, wherein the values are entered by the user through interaction with one or more configuration menus of a user interface of the mobile device; and transmitting the configuration data to a server system for updating respective records of a database in the mobile communication network, in response to determining that the configuration data has been modified by the user, wherein the configuration data is compared with the respective records of the database for consistency, wherein the configuration data is compared to a range of values to determine whether the configuration data transmitted to the server system is valid, in response to determining that the respective records of the database are inconsistent with the configuration data, wherein an alert is generated, in response to determining that the configuration data is outside the range of values, wherein the database is updated by replacing at least one record in the database based on the configuration data, such that the configuration data is made available to a service representative for trouble shooting purposes,” as recited in amended claim 1.

Hiltunen discloses a system comprising a first device and a second device having an electronic data card associated therewith, information on the electronic data card being useable by and accessible by the first device, wherein the first device is arranged to control the operating characteristics of the electronic data of the second device. See Abstract.

Hiltunen fails to disclose at least one of the elements recited in claim 1, as amended. In particular, Hiltunen fails to disclose “determining whether a user has modified configuration data stored in a memory of a mobile device by comparing one or more values entered by the user with the configuration data, wherein the values are entered by the user through interaction with one or more configuration menus of a user interface of the mobile device; and transmitting the configuration data to a server system for updating respective records of a database in the mobile communication network, in response to determining that the configuration data has been modified by the user, wherein the configuration data is compared with the respective records of the database for consistency, wherein the configuration data is compared to a range of values to determine whether the configuration data transmitted to the server system is valid, in response to determining that the respective records of the database are inconsistent with the configuration data, wherein an alert is generated, in response to determining that the configuration data is outside the range of values, wherein the database is updated by replacing at least one record in the database based on the configuration data, such that the configuration data is made available to a service representative for trouble shooting purposes,” as recited in amended claim 1.

Levin discloses a system for conducting promotional campaigns for multiple types of electronic communication devices. The promotional campaigns may include advertising and marketing campaigns involving the use of one or more of surveys, interactive games, contests, sweepstakes, location-based promotions, and tie-ins with brick-and-mortar outlets. See Abstract.

Levin fails to disclose at least one of the elements recited in claim 1, as amended. In particular, Levin fails to disclose “determining whether a user has modified configuration data stored in a memory of a mobile device by comparing one or more values entered by the user with the configuration data, wherein the values are entered by the user through interaction with one or more configuration menus of a user interface of the mobile device; and transmitting the configuration data to a server system for updating respective records of a database in the mobile communication network, in response to determining that the configuration data has been modified by the user, wherein the configuration data is compared with the respective records of the database for consistency, wherein the configuration data is compared to a range of values to determine whether the configuration data transmitted to the server system is valid, in response to

determining that the respective records of the database are inconsistent with the configuration data, wherein an alert is generated, in response to determining that the configuration data is outside the range of values, wherein the database is updated by replacing at least one record in the database based on the configuration data, such that the configuration data is made available to a service representative for trouble shooting purposes,” as recited in amended claim 1.

Accordingly, even if Okkonen could be combined with one or more of the cited references, the cited references fail to cure the deficiencies of the above-mentioned references, as they also fail to disclose “determining whether a user has modified configuration data stored in a memory of a mobile device by comparing one or more values entered by the user with the configuration data, wherein the values are entered by the user through interaction with one or more configuration menus of a user interface of the mobile device; wherein the configuration data is compared with the respective records of the database for consistency, wherein the database is updated by replacing at least one record in the database based on the configuration data, such that the configuration data is made available to a service representative for trouble shooting purposes,” as recited in claim 1.

While the suggestion to modify or combine references may come from the knowledge and common sense of a person of ordinary skill in the art, the fact that such knowledge may have been within the province of the ordinary artisan does not in and of itself make it so, absent clear and convincing evidence of such knowledge. C.R. Bard, Inc. v. M3 Systems, Inc., 157 F.3d 1340, 1352, 48 U.S.P.Q.2d 1225, 1232 (Fed. Cir. 1998).

Here, the modification or combination proposed by the Examiner is not based on any clear and convincing evidence of a reason, suggestion, or motivation in the prior art that would have led one of ordinary skill in the art to combine the references. Rather, the reason, suggestion and motivation for the combination of references proposed by the Examiner simply is impermissible hindsight reconstruction given the benefit of Applicant’s disclosure.

The Federal Circuit has consistently held that hindsight reconstruction does not constitute a prima facie case of obviousness under 35 U.S.C. § 103. In re Geiger, 2 USPQ2d 1276 (Fed

Cir. 1987). Unfortunately, the Examiner rather than pointing to what the prior art discloses and teaches as to making the suggested modification relies on assumptions and statements without any support in the record. As such, the Examiner's statements regarding obviousness and motivation to modify are but shortcuts to a conclusion of obviousness devoid of the required analytical approach based on what is actually disclosed in the prior art.

Reliance on impermissible hindsight to avoid express limitations in the claims and setting forth unsupported hypothetical teachings to recreate the Applicant's claimed invention cannot establish a prima facie case of obviousness. Since obviousness may not be established by hindsight reconstruction, Applicant invites the Examiner to point out the alleged motivation to combine with specificity,¹ or alternatively provide a reference or affidavit in support thereof, pursuant to MPEP §2144.03.²

Since no reasonable justification is provided in the Office Action as to how such modification or combination is possible and obviousness may not be established based on hindsight and conjecture, it is respectfully requested that the §103 grounds of rejection be withdrawn.

For the above reasons, none of the cited references, either alone or in combination, teach or suggest all the elements recited in claim 1, as amended. Therefore, it is respectfully submitted that claim 1 is in condition for allowance. Claims 2, 3, 7, 8, 10, 23, and 24 depend on claim 1 and should be in condition for allowance by the virtue of their dependence on an allowable base claim. Claim 11 substantially incorporates the elements of claim 1; therefore, claim 11 and claims 12, 13, and 18-22 depending from claim 11 should also be in condition for allowance.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of

¹ *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984).

² "The rationale supporting an obviousness rejection may be based on common knowledge in the art or "well-known" prior art . . . If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position. When a rejection is based on facts within the personal knowledge of the examiner . . . the facts must be supported, when called for by the applicant, by an affidavit from the examiner."

any claim, unless Applicant has expressly argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California, telephone number (310) 789-2100 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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By: _____
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